G. R. S. IX-5]

Previous references. 1895-96

191 .

(L. R.)

Later references.

File No. 104-95 ~~89-95~~.

Serial Nos. 1 to 13

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 13.

In ~~Part~~ B for September 1898.

SUBJECT.

Appeal of Hariyappa and Timmappa of Honnesara Village, Sagar Tk. regarding the Paleli.

W D 1250—GPB—30,000 - 28-1-19

Indexed

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 121 of 1895-96.

Appellant.	Vs.	Respondent.
1. Hariappa	1 Timmappa	
2- Timmappa	2 Manjappa	
minors by guardian	3. Dyavamma	
Subba Row		

Notices served
9-7-96.

~~Decision.~~

9. 7. 96.

1/appt- in person. He represented that his guardian was unable to appear & asked for an adjt.
1. Respt for person
adj- to 30th inst.
notices issue.

30th July 96.

Appt- in person.
Respt- in person.
Adj- to 31st inst.

31-7-96.

Appt's guardian Subbaiah in person
1st Respt- Timmappa in person.
arguments heard.
Order pronounced directing further enquiry

Porter
~~Adjourned~~ to 16th June 1897

Adjourned to 25th June 1897

Appellants & 1st respondent present

Suit dismissed

M 15/6/97

Appeal No 121 of 1895-96

Appellants.
(Plaintiffs)
1. Hariyappa
2. Timmappa
Minors by guardian
Subba Rov.

Respondents
(Defendants)
1. Timmappa
2. Nanjappa
3. Gyavamma.

Dispute regarding the Patel of Honnesara in the Sagar Taluk.

List of papers in English.

(1) Sub Dn Officer's decree
(2) do judgment
(3) By Commr's judgment
(4) do decree
(5) Appeal petition
(6) Offl Memorandum
(7) By Commr's docket
(8) Govt Proc No 1489 ~~P. 2409~~ 7. 8. 96, remanding the case for further enquiry & report
(9) Sub Dn Officer's opinion
(10) By Commr's docket forwarding the above
(11) Docket to By Commr 20. 5. 97, calling for additional records.
(12) By Commr's letter 1. 6. 97
(13) Office Note & Genealogical Table.

There is a plain assertion in the plaint that the father of the Pffs was minded and if this is so the period of limitation began to run upon his death. But the appellant persists in the statement that this averment in the plaint is not correct. This admission ought not to be conclusively acted upon. An issue of fact must be framed on this point and it must be distinctly found as to whether the Pffs' father was a minor or not when he died. It would appear moreover that there are three circles and that they are supported by the two brothers & a brother's son. The two brothers are admitted to be living together and undivided - The Dist. Court will direct on the advisability of having all the villages in one Taluq. undivided

31-7-56

Regular Appeal no 1212 1895-96

Appellants
1. Hanyappa
2 Thuppappa
Minors by guardian
Subba Rao

Respondents
1 Timmappa
2 Manjappa
3 Dyavamma

In this case, the Dy Commr was asked to submit a finding on the issue as to whether the appellants' father was a minor when he died & to report on the advisability of having the three wills in one undivided family (the respondents)

The Dy Commr has forwarded the Sub Dn Officer's finding that the appellants' father was not a minor when he died and his opinion that no inconvenience has arisen from the 3 wills being in the possn of one family.

It is doubtful whether the Dy Commr should not have

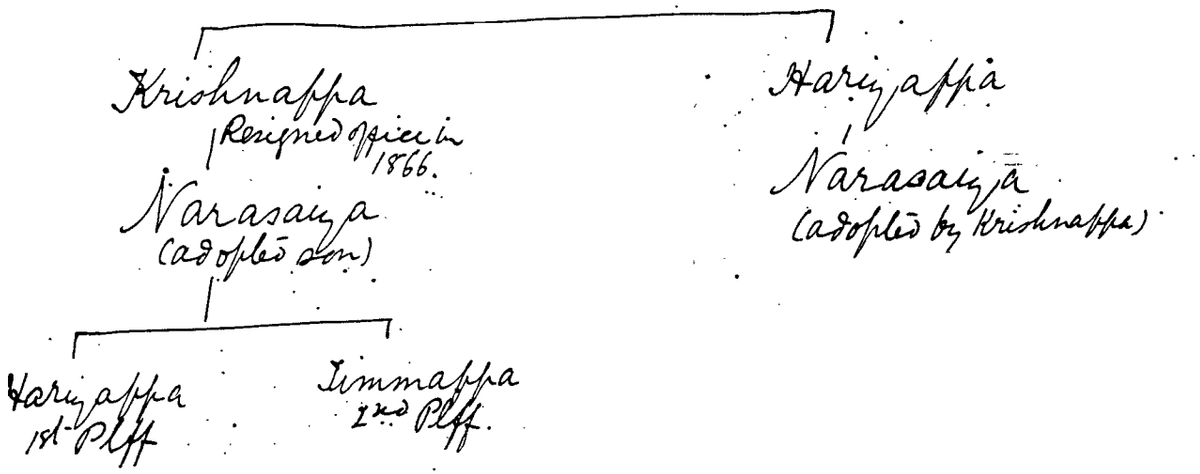
The finding about the age of Narasayya at the time of his death being after 1880, it is clear that the suit is barred as held by both the lower courts. The 1880 had not been born when their grandfather resigned the office & their father who could have called in question the alienation of their right died without doing so. The period of limitation which began to run, then continued and the suit is therefore clearly barred. This appeal is therefore

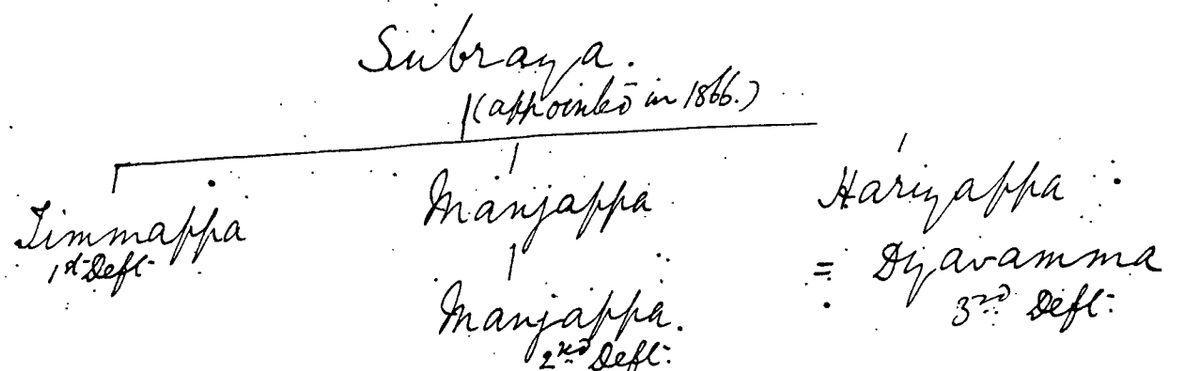
expressed
his concurrence in the
finding & report of the
Sub Dist Officer. As he
has simply forwarded the
enquiry of the Sub Dist Officer

Sub to 2nd Councillor
MM 12/3/97

Hiregire deceased -
put in consideration
the 8 members
and no members
loss of title
title of the family
their case may be
considered where
where there may be
a vacancy in
their hereafter.
15-6-97

Genealogical Table.





1895-96

"Duly Stamped
In Time L.R. 84 95-1
Council Case

Subd
AS. 9/3/96

Called by Counsel
9-3-96.
Adjournment
Short Order
Notice
10.3.96
11-3-96.
RD. 5.25. PM.
Drafted 12-3-96.

No. 3135.

Name of Petitioner, 1 Hariappa, son of Narasa
2 Timmappa sons of — do —
Represented by their guardian Havinakuli Subba Rau

Village, Honnesara

Taluk, Sagar

District, Shimoga

Date of Arzi, 28-2-96

Date of Receipt, 6-3-96.

Date of Disposal,

No. of Enclosure, ~~nil~~ 4

ABSTRACT.

Appealing against the judgment and decree of the Deputy Commissioner, Shimoga District dt 13.12.95 AS. dismissing their appeal as being barred by limitation.

The Petitioner states as follows:

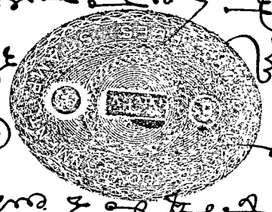
(1) That the lower court is wrong in dismissing their appeal on ground of limitation, inasmuch as the Appellants' father was, as agreed by the lower court, only 18 or 19 years of age at the time of his death. Since he died before his 21st year the minors get additional time for limitation. Section 9

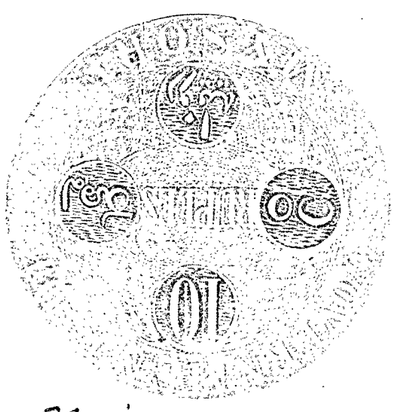
of the Limitation Act does not, therefore, apply in the present case.

1. That the time for this dispute is to be calculated from the time of the Polgi settlement, which was made in 1886.

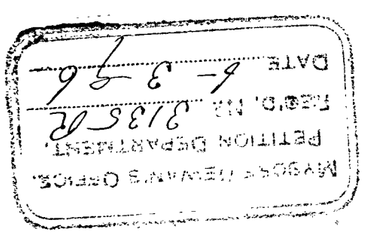
) That since the appellants are yet minors and their father died in his minority the suit is not barred by limitation.

Prays that on the grounds the decree of the lower court may be set aside and an order passed in their favour directing Respondents to bear the costs of Petr. A.S. and that plaintiffs' suit be decreed with costs. A.S. 9/3





MYSORE COURT FEE



Pet V
1696
Enc 5

14-3-96

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

(2)

L.R. 84-95

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

Registered No. 3135 dated 28-2-96

received at the Dewan's Office from Hariappa and Linnappa of Hemmara village, Sagar Taluk appealing against the Shimoga Deputy Commr's order dismissing their appeal as time barred from the decision of the Sub Deputy Commr. in Suit No. 1 of 1894-95 regarding the office of Patel of Brahmanwada, Tadakodi Nagar village

is forwarded, together with its enclosure(s) to the Deputy Commissioner of the Shimoga District for submission of the entire proceedings connected with the case.

2. The petition with its enclosure(s) should be returned.

By order,

for Chief Secretary.

BANGALORE,
12-3-1896.

14.

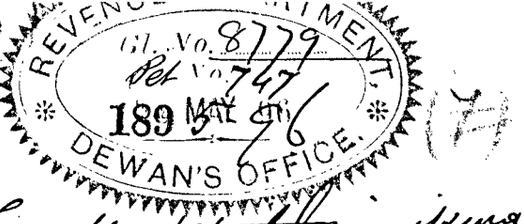
12/3/96

M.G.C.P.B.—25-4-95—1,000

Recd in Pol: Dept on the 9th July 1896 from the Sub Collr of Sagar

Recd to 9th July 1896

Gen. 31]



Enclosures issued 694-95-3
L. R. 84-95-3
Ltr 1616.

From The Offg: Deputy Commissioner
Shimoga District

To The Secretary to Govt
General & Rev: Depts

Dated 21st May 1896.

Despatched

Received

General No. 1176 & 1955-96
No. 879

Enclosure No. 2 Records with 5 enclos:

With ref: to his official
Memo: dt 28th Feby: 1896 submit-
ting the entire records con-
nected with the Office
of Patel of Brahmana-
vada Village, Sagar
Taluk —

Pol: March
25/5/96

25/5

Submitted with refer
Mr. Bruce - Desk in the list
of cases to be perused & brought
up when the next batch of papers is sent

1095-96

From The Offg: Deputy Commissioner
Nasik

To The Secretary to Government
General and Revenue Departments

Dated 21st May 1896.

No. 1176/879 & 1095-96

Encl: 2 Records with 5 encls:

His Official Memorandum
No. Rct/1696 of the 28th February 1896 calling
for the submission of the entire records
connected with the Office of Patel
of the Brahmanwada Village,
Sagar Taluka —

Has the honour to submit
herewith the marginally noted
records as called for in the above

2. The enclosures received with
the above are herewith returned.

K. Krishnaraja
for Offg: Deputy Commissioner

1/6/96

16 21st [illegible]

GOVERNMENT OF MYSORE (5) (8)

L.R. 89-95-96 Proceedings of the Govt of Mysore

Read:-

(1) Petition of appeal No 3133/121 of 1895-96, presented by Hariyappa and Timmappa, minors by guardian Huvinakuli Subba Rau of Honnesara, Sagar Taluk ~~appealing~~ against the decision of the Deputy-Commr of Shimoga in Revenue Appeal Case No 1 of 95-96 on the file of his Court ~~dismissing~~ confirming the judgment of the Sub-Officer of Sagar, dismissing, as barred by the Law of Limitation, the appellants' suit for the Patels of Honnesara and two other circles in the Sagar Taluk.

(2) Records of the case received with the Shimoga Deputy-Commr's docket No 1176/879 dated 21st May 96

No 148/9 Pet-240 Encl: 2 Vols. files. 8/7/11 8-96.

Order

There

There is a plain assertion in the plaint that the father of the Plaintiffs was nineteen years old when he died and, if this is so, the period of limitation began to run before his death. But the appellants' guardian persists in the statement that this averment in the plaint is not correct. This admission ought not to be conclusively acted upon. An issue of fact must be ~~framed as to the point, and it must be distinctly found~~ framed as to whether the Plaintiffs' father was a minor or not when he died, and a distinct finding submitted with reference to it. It would appear moreover that there are three circles and that they are enjoyed by ~~the~~ two × brothers and a brother's ×× son. The two brothers are admitted to be living together and

× 1st Defdt & his brother

×× the 2nd defendt

and undivided. The Deputy Commissioner will report on the advisability of having all the villages in one undivided family.

Draft- 7-9-96.

Secretary.

C 2+3

To The Deputy Commr Shimoga District with records.

S.C. 3/8.

2 Drafts 10-8-96

3135

(4)

L.R. 89-95

[illegible]

[illegible]

[illegible] 28-2-96 [illegible]

[illegible]

[illegible] 1896 [illegible]

By Order

Draft

7-8-96

For Secretary.

[illegible] 2 copies

ಎಲ್ಲರಿಗೂ ತಿಳಿಸಿದೆ

ಎಲ್ಲರಿಗೂ ತಿಳಿಸಿದೆ

ಸಭೆಯಲ್ಲಿ ಹೊಸ ಸದಸ್ಯರುಗಳನ್ನು ಆಯ್ಕೆ

ಮಾಡಲಾಗಿದ್ದು ಸದಸ್ಯರಿಗೆ ತಿಳಿಸಲಾಗಿದೆ.

ಆದಾಯ ವೆಚ್ಚದ ಅಂದಾಜನ್ನು 1896 ನೇ ಸಾಲಿನ

ಸಾಮಾನ್ಯ ಸಭೆಯಲ್ಲಿ ಸಲ್ಲಿಸಲಾಗುವುದು.

By order

for Secretary.

L.V. 3/8.

5824
Pet 538

(7) 189 97

From
The Sylvercommissioner
Shimoga District

To
The Secretary to the Govt of Mysore
Genl & Revenue Depts

Dated 5th March 1897.
Despatched
Received
General No. 920
No. 813

Enclosure No. Record of Enquiry & 2 V. files

Adverting to Govt order No. 1489 Pet 240 of the 7th August 1896 submits the record of enquiry made by the Sub Division Officer of Sagar in connection with the Patels of Hanmesara Hea. Circles.

Petitions Branch
8/3/97
M 813
Respectfully
AK
9/3

Sealed
10/3/97

Sent to 2nd Commn with a short note
M 143/97
Rec'd 9 Mar.
3/3/97.

Put before me in connection with memorials from parties concerned. Supplementary papers wanted by Mr Rice are all in the record. Put before him.
MCS
17.3.97

Mr Rice's note
Pet 29/4/97
Pet 10/3/97

Shimoga District 22

No 920/813

Deputy Commr's Office
Shimoga 5th March 1897

To

The Secretary to the
Government of Mysore
General and Revenue Depttts.

Sir,

Adverting to Government order No 1489/Pet 240 of the 7th August 1896 framing a fresh issue in the case therein referred to and calling for a distinct finding thereon, I beg to submit herewith the record of the enquiry made by the Sub Division Officer of Sagar on the issue framed.

2. The two files of records received with the Government Order under reply are herewith resubmitted.

I have the honor to be
Sir,
Your most obedient servant

W. H. Venkata Varadiyangar

1398 Deputy Commissioner

Urgent

GOVERNMENT OF MYSORE

1896-97

From

The Sub Division Officer

Sagar

To

The Deputy Commissioner

Shimoga

Dated 28th May 1897.

No 375

Re: Rec 1 appl

His No 2445 dated 26th instant enclosing Secretary's Rec No 1020 dated 20th Idem D. Rec No 1697 calling for certain records referred to in a Petition given by Timmappa of Honnesara, Sagar Taluk.

Returning the above Petition has the honor to state that the District

and Sessions Judge of Sagar Division has been requested to forward to him the records in Original Civil Suit No. 324 of 1869 on his file. It cannot be made out what the "Public records" referred to in the petition are, and if any such were produced by the Petitioner, they should either be filed with the records of the case or have been returned to him.

Signed J. H. V. Nanjundayya
Sub-Division Officer
Sagar

Copy"

W. K. Mackintosh
Deputy Commissioner
Shimoga

1876

Draft-Reminder sub'd
L.V.
3/6/97

1014-
L-R. 89-95-7

From The Secretary to the Govt
of Mysore

To The Deputy Commr
Shimoga District

Dated 20th May 1897.
No 6210
P. 1697

In forwarding herewith petition No. 478 29th June last received from Timmappa and 2 others of Konanassara, Sagar Taluk, has the honor to request that the records referred to therein which are not in the file of records received with his letter No. 920/813 25th March last, may be forwarded to this office before the 14th proximo as the appeal of Hariyappa and another in which the Petrs are respondents stands posted for hearing on that date

By Order

for Secretary

'Dft'
BLR.

24

GOVERNMENT OF MYSORE 189 6 DEWAN'S OFFICE - 4 JUN. 97

L.R. 1054-95-8 From The Deputy Commr
Shimoga district

To The Secretary to the
Government of Mysore
Jeyt and Rev: Depts

Dated 1st
Despatched
Received 3 June 1897
General No. 1281
No. 1084

Enclosure No. 2

Submitted to the Assistant-Secretary with references. This is one of the cases posted to 14th Instant.
S.V.
8/6/97.

This in effect amounts to 3 appeals that the records ref 2 & 4 are not in the 5th Comr's or 5th Judge's Court.
M

Appellt referred to two sets of record - one civil & the other produced by him before the Sub Dr Office Sagar.
The first is said to be not available - as no such case was filed in the 5th Court - & the 2nd set is stated by the Sub Dr Officer to be either in the exciting particular records or to have been returned to Tirumalappa
It should be ascertained whether the records refd to are in the file
M 8/6/97.

Submitted.
The 2nd set of records is described in the petition as the public records produced before the Sub Dr officer of Sagar by the 1st Respt with his letter dt 15.9.94. No such petition is found in the records
S.V. 8/6/97. M 8/6/97

According to Rr No 10210 dated the 20th May 1897 of 1697 states that no case bearing No 324 was filed in the Sagar Division Court in 1869 and returns the petition of Thimalbhat and 2 others of Thavarekere.

Petition
M 8/6/97

Read 5/6
D 1751 of 3-6-97
is put up - & the papers are with Dr Somashekara
AS 5/6. To Mr Srinivasa Iyengar for reference & return 5/6

No. 1281
1084
Encl: 2

Deputy Commrs Office
Shimoga district
Shimoga 1st June 1897

To
The Secretary to the
Government of Mysore
Genl. and Rev. Deptt.

Sir,

Adverting to your docket
No. 10210 dated the 20th May
of 1697
1897 forwarding the petition
of Timmappa and 2 others
of Konansara in the Sagar
Taluk and requesting the
forwardal of certain records
alluded to therein, I beg to
state that no case bearing
No. 324 was filed in the
Sagar Division Court
in 1869. Regarding the
other record referred to
by the petitioner I beg

28

to enclose copy of docket
No. 375 of the 28th May
1897 from the Sub Division
Officer of Sagar.

2. The petition is returned
herewith.

I have the honor to be
Sir
Your most obedt. servt.

Deputy Commissioner
Shimoga District

WRL

Gen. Serial No. 31.]

OFFICE OF THE
11181
10. JUN. 1897
DEWAN OF MYSORE.

Res. une put up with Pet 704.

AK 17/6/97

L R. 95-9

838D 1897

~~R 5752~~

From Pet 722

The Deputy Commissioner
Shimoga District

To The Secretary to the Government of Mysore, General and Revenue Departments

Dated 8th June 1897

Despatched

Received

Enclosures No. Record

General No. 1304 } 96/97
No. 1102

In continuation of this office letter No: 1281/1084 dated the 12th June 1897, beg to submit the records in Os No 324 of 1869 on the file of the late Judicial Assistant Superintendent's Court of this District.

The record has been returned to the Dy Comr's Court the appeal having been dismissed

5/7/97

Dewan
17/6/97

Pet re 17/6/97

Ref belongs to Petitions Br
17/6. To be transferred to Petn Br
17/6/97

Rec'd 17/6.

1102

Inv: record.

District, dated the 8th June 1897.

To

The Secretary to the Government
of Mysore, General and Revenue Departt.

Sir,

In continuation of this office letter No: 1281/1084 dated the 1st June 1897, I beg to submit herewith the records in O.S. No: 324 of 1869, on the file of the late Judicial Assistant Superintendent's Court of this District as per Sheriff received from the District Supt of the Nagar Division.

I have the honor to be,
Sir,
Your most obedient Servant,

Deputy Commissioner

1926

Proceedings of the Govt of Mysore

L. R. 104-95-10

Read:-

(1) Petition No. 3135/A.S.121 of 1895-96, presented by Hariyappa + Timmappa, minors, by guardian Hiriyanakuli Subba Rau of Honnesara, Sagar Taluk, appealing against the judgment + decision of the Deputy Comm^r, Shimoga District, in Revenue Appeal case No. 1 of 1895-96 on the file of his court, confirming the decision of the Sub-Division Officer of Sagar in Rev. O.S. No. 1 of 1894-95 on the file of his court, dismissing, ~~the Plaintiffs~~ as time-barred, the Plaintiffs' suit for the recovery of the Patels of Honnesara and two other Pirkas in the Sagar Taluk.

Plaintiffs
Hariyappa +
Timmappa, minors,
by guardian Hiriyana-
kuli Subba Rau

Defendants
1. Timmappa
2. Ranjappa
3. Dyavamma

(2) Govt Progs No. 1489/P.240 27.8.96 remanding the case for further enquiry and report.

(3) Letter No. 920/813 dy 5.3.97 from the Dy Comm^r, Shimoga Dt, and the records received

received therewith.

Order No. 183 / P.11 8.8.7.97

Encl. V. record

The Plaintiffs' grandfather Krishnaiya who was the hakdar Patel of the villages in question, resigned the office unconditionally in 1866 and died in 1869. Before his death he is said to have adopted Plaintiffs' father Narasaiya as his son. In July 1894 the Plaintiffs (instituted a suit in the court of the Sub-Division Officer, Sagar, for recovery of the Patel office from the Respondents family.* But the Sub-Division Officer dismissed the suit as being barred by the Statute of Limitation. On appeal the Deputy Comnr concurred in the Sub-Dn Officer's view and dismissed the suit on the same ground. Petitioners have appealed to Govt against this order. At the hearing before the Council the Plaintiffs' guardian alleged that Narasaiya, the father of the Plaintiffs was a minor when he died. The Dy Comnr was directed to submit a finding on this point & From the evidence recorded by the Sub Dn

by their guardian Hurrinathrao C.I.E.

* In the plaint they urged that Narasaiya was 19 years old when he died.

officer of Sagar in the remand
enquiry held before him it has been conclusively
proved that Narasaiya was a
major at the time of his death.

2. Govt observe that the
finding about the age of Narasaiya
at the time of his death being
against Plaintiffs, it is clear
that the suit is barred as held
by both the lower courts. The
Plaintiffs had not been born
when their grandfather resigned the
office and their father who could
have called in question the alienation
of their right died without doing
so. The period of limitation which
began to run then continued
and the suit is therefore clearly
barred - This appeal is therefore
dismissed: But in consideration
of the Plaintiffs being minors a

no

no parties to the said loss of the title of the family their case may be considered when there may be a vacancy in these offices hereafter.

For Secretary

Draft

Bln.
3/7/97

5/7/97

To

The Deputy Commissioner,
Shimoga District with records. ×Board
8-7-97

* The Leib. Dr's Officer's Memo. of Opinion which has been separated from the Vernacular records and put up with the list of papers in the case, could not in consequence go with the records. It was sent in a separate cover today.

31.7.97.

L.R. 84-95-11

8-7-97

3135 ನೇ

ಸಂಖ್ಯೆ

ಇಂತಿ ನಿಮ್ಮ ವಿಶ್ವಾಸಿ

ದಿನಾಂಕ 3.7.97 ರಂದು ಬೆಂಗಳೂರು

By order

for Secretary

Draft

ದಿನಾಂಕ 3-7-97 ರಂದು ಬೆಂಗಳೂರು

By Order

for Secy

1898

No. 195

Name of Petitioner Timmappa, Patel of

Village Gadikatte

Taluk Sagar

District Shimoga

Date of Arzi 10.7.98

Date of Receipt 21-7-98

Date of Disposal

No. of Enclosure Nil

ABSTRACT

With reference to this office Endt No. 27958 16.6.98, Petr presents this petition duly stamped.

Application for review of Govt order No. 31358 3.7.97 regarding the Patels of Honnesara and 2 other circles. The Petr. takes objection to the relief granted to the appellants in the above case that in consideration of their having been minors and of their not being among those who had lost their haks, their haks would be considered when a vacancy occurs in any one of these circles

7.98

2795 of 98 Refer to patrep vol 1-95-12

L.R. 8/7/98

L.R. stamp affd - Stamp papers

The delay of 7 months in the presentation of the petition appears to have been explained - Submitted to the returning Officer for

orly

8/7/98. The abstracting clerk will translate the portion relating to the explanation of delay

3/8/98

Submitted with the translation

8/98

This petn applies for review of the concluding sentence of Govt No 183 P11 dated 5.5.1897 (Govt No 12 Appendix) This portion of the order relates to some contingency which may never happen. The petn. alleges the defendants in the case - to be fatally prejudiced by the order & the application for review seems to be under some misapprehension

3/8/98

Govt orly 10/8/98 Submitted with papers

Sub 52nd C.R. 13/8/98

No reasons to suspect

these circles.

The grounds for review are:-

(1) That it is evident from the record that the appellants' father Narasanja was a major both at the time of his death and at the time of his resigning the office.

(2) That it is evident from the Amildar's report No. 444 & 19.9.65 to the Deputy Commr that at the enquiry which was held at that period the appellants' father and other heirs who were present, all resigned their hak

(3) That as regards the statement in the endorsement that it was argued that the suit was not time barred, there is no ground to the appellants to get back the hak once resigned by them.

(4) The the appellants who are among those who have lost their hakas can never be entitled to the Pateli of any of the villages when they fall vacant and that Govt may consider their hak for the Pateli of any other circles unconnected with the above circles and therefore the order of the Dy Commr may be amended ac-

The Petr does not give any explanation for delay. He states that he has submitted this petn duly stamped that his prayer would be granted & that though the review is out of time yet as Govt have full power to consider all things in the best manner his review may be allowed.

Bln
4/8.

13-7-98

REGD. NO. 1435

DATE 21-7-98

Two Rupees Stamps affixed
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195 P. 17-9-98

L.R 10H-95-13

"By order"